

**BOARD OF ISLAND COUNTY COMMISSIONERS MINUTES OF MEETING
OCTOBER 4 & 7, 2010 – REGULAR SESSION**

The Board of Island County Commissioners (including Diking Improvement District #4) met in Regular Session on October 4, 2010 beginning at 10:00 a.m. in the Board of County Commissioners Hearing Room (Room # 102B), Annex Building, 1 N.E. 6th Street, Coupeville, Washington. Helen Price Johnson, Chair, Angie Homola, Member, and John Dean, Member were present. The meeting began with the Pledge of Allegiance.

PUBLIC INPUT OR COMMENTS (Record Part 1 @ 1:05)

Rufus Rose asked if the Board would allow public comment concerning Item 13, *Schedule a Public Hearing on Ordinance C-84-10 (PLG-007-10) Adopting an Interim Official Control that Regulates the Use of Property within the Freeland Non-Municipal Urban Growth Area*. He also asked where he could find the County's growth numbers in population.

CONSENT AGENDA (Record Part 1 @ 3:30)

[Documents on file with the Clerk of the Board]

BY UNANIMOUS MOTION (3-0) the Board approved the following items presented on the Consent Agenda:

Pre-audited bills: \$650,669.66
Vouchers: \$1,689,297.55
Electronic funds transfers: \$214,958.74
Payroll: \$622,865.26
Minutes: *None presented*

Commissioners

- Letter of congratulations to the Clinton Progressive Association for its recognition as a 2010 Century Corporation
- Ordinance C-81-10 Amending Island County Code Section 3.06.060 to Restructure the Lodging Tax Advisory Committee from 13 Members to 7 Members

Enhanced 911

911 Excise Tax Agreement with WA State Department of Revenue authorizing DOR to administer and collect the County's enhanced 911 excises taxes (RM-BUD-10-0402)

Human Resources – Personnel Action Authorizations

None presented

Human Services

- Contract with William Mattilla, M.A. to provide mental health counseling services. Contract No. HS-10-28-10; Amount: \$2,500 (RM-HLTH 10-0392)
- Resolution C-82-10 to Update the Island County 10-Year Homeless Housing Plan

Public Works – County Roads

Public Hearing Scheduled – November 1, 2010 – 10:15 a.m.

Franchise #391 – Franchise for a sewer transport line located in County rights-of-way known as Wateredge Drive and Clyde Road located in Section 2, Township 29N, Range 3E, Whidbey Island (RM-PW-10-325) (PW-1020-060)

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Public Works

- Resolution C-83-10/R-28-10 In the Matter of Amending Island County's Six-Year Capital Improvement Program for the Years 2011-2016.
- Contract/Contract Bond – Island County Jail Controls Replacement Project PWP 08-06, Work Order No. 417; Engineered Control Systems, Inc. (RM-PW-10-0375) (PW-1020-079).

Liquor License(s)

New Application for Liquor License No. 406938-6E by Live Edge Farm LLC, Alvaro Lobon Vega, Andrew Jackson Adams and Rio Carmen Rayne

REGULAR AGENDA (Record Part 1 @ 9:52)

[Documents on file with the Clerk of the Board]

Schedule Public Hearing: Ordinance C-84-10 [PLG-007-10] In the Matter of Adopting an Interim Official Control that Regulates the Use of Property within the Freeland Non-Municipal Urban Growth Area

The proposed ordinance adopts the Freeland NMUGA interim development regulations addressing the following: (1) Eliminates the potential for new uses to be established that are classified as non-conforming under the Land Use Element of the Freeland Sub Area Plan; 2) Allows interim development only after it is demonstrated that the activity will not preclude future urban growth, uses, and infrastructure; and 3) Goes into effect immediately and shall remain in effect for a period of six months, or as soon as permanent rules are adopted, whichever is earlier.

Mr. Rose commented there are many changes the public would like to make to what has been presented thus far. Why not wait until the public comments have been made and can be incorporated into the new concept he asked. Mr. Pederson answered that the proposed ordinance is merely to extend the interim control while the planning process continues.

MOVED BY HOMOLA, SECONDED BY DEAN, to **SCHEDULE FOR PUBLIC HEARING** Ordinance C-84-10 [PLG-007-10] on **OCTOBER 18, 2010 at 10:15 a.m.**
MOTION CARRIED: 3-0

Commissioners

Resolution C-85-10 Supporting the 2010 United Way Drive Within Island County

MOVED BY DEAN, SECONDED BY HOMOLA, to ADOPT Resolution C-85-10.
MOTION CARRIED: 3-0

Resolution C-86-10 In the Matter of Proclaiming the Month of October 2010 Orca/Salmon Month in Island County.

Nancy Waddell with Whidbey Watershed Stewards provided background and invited the Board to Saturday's Fin Fest.

MOVED BY DEAN, SECONDED BY HOMOLA, to ADOPT Resolution C-86-10.
MOTION CARRIED: 3-0

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PUBLIC HEARING

[Documents on file with the Clerk of the Board]

CLOSED RECORD APPEAL HEARING (Record Part 1 @ 17:20)

APP 132/10, Paula Spina: Appeal of the conditions of approval by the Island County Hearing Examiner in granting Site Plan Approval of SPR 169/09 which designated the existing Crocket Farm barn, 1056 Crockett Farm Road, as a Rural Event Center.

Mr. Pederson indicated that as a Closed Record Appeal, the standard of review is whether the Hearing Examiner decision is or is not supported by substantial evidence in the record, or whether the Hearing Examiner made an error of law. The venue today is not one to introduce new arguments.

Mr. Hicks, Senior Planner and Code Enforcement Officer, provided a brief timeline and background on the issue. Staff's recommendation to the Board was to uphold the Hearing Examiner's decision in its entirety.

Chair Price Johnson reviewed the order of proceedings for the day saying that the Appellant will provide an opening argument (1 hour devoted in total to the opening argument and rebuttal); County staff will provide a response; Intervening party will provide a response; with Appellant at the end having an opportunity for rebuttal.

Commissioner Homola, in response to someone who suggested she recuse herself because she received a campaign contribution from Ms. Spina, stated the following:

As a quasi judicial member there is no breach of law for my participation based on the grounds that I received campaign contributions from the Appellant. I would refer you to RCW 42.36.050 regarding campaign contributions, nor do I believe there is a conflict of interest. In full disclosure I have also supported the appointment of James Moore to the Ebey's Landing National Historic Reserve Committee. Campaign contributions are made by individuals who believe in the values of those running for office. In the past I has served as an ex officio member on the then Ebey's Landing National Historic Reserve (HAC); that participation, coupled with my architecture career exemplifies my interest in historic preservation. I imagine that is one reason why Ms. Spina supported me during my campaign. I plan to hear all parties' depositions without bias, to gain as much information as possible so that I can offer my one-third of the decision or recommendation with regard to the parameters of the Hearing Examiner's decision.

APPELLANT'S OPENING ARGUMENT

- *Handout provided by Mr. Bricklin –
Appendix to Appeal, blue-line version of what is already in the record*

David Bricklin, Appellant's attorney, provided his opening argument. He believes the conditions imposed are simply unworkable to continue to use the facility in the way Appellant has used it in

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recent years. Without that ability Appellant will not only be unable to continue the events, but also will not be able to maintain the historic asset (barn). He quoted the Hearing Examiner's decision: *There is little evidence that there has been a significant adverse impact from the numerous events held over the last few years.* Mr. Bricklin said that Appellant agrees and based on that, the Hearing Examiner had no legal justification for imposing the conditions he did. The blue-line version of the Appendix to Appeal provided by Appellant illustrates a recommendation of what the conditions should look like.

STAFF'S RESPONSE

Mr. Hicks indicated that most of the issues raised by Appellant were addressed in the Staff recommendation and are supported by the Hearing Examiner's decision.

INTERVENOR'S RESPONSE

Doug Kelly, attorney for Intervenors, offered a response by describing why the Hearing Examiner's decision is reasonable and should be sustained.

APPELLANT'S REBUTTAL

Mr. Bricklin spoke to the *Sunderland* case along with noise, visual and adverse impacts reaching the Moore property.

Following presentations the Board participated in a question and answer period with Messrs. Bricklin, Kelly, Pederson and Hicks.

The Chair, for the record, wanted it clear that the Board's purpose is to decide whether the Hearing Examiner erred in imposing certain conditions and whether certain conditions imposed are based on sufficient evidence in the record.

The Board will return to open session with its oral decision on October 18, 2010 at 11:30 a.m. followed by a written decision at another date.

COMMISSIONERS COMMENTS & ANNOUNCEMENTS (Record Part 1 @ 2:05:53)

Commissioner Homola

- National Association of County Officials – will participate on the Environment, Energy, and Land Use Steering Committee
- Suggestion for weekly briefing of the Board's calendars

Chair Price Johnson

- Ms. Marlow is working toward posting the budget narratives, along with other budget documents, as a means to continue the Board's outreach

At 12:18 p.m. the Board recessed its Regular Meeting, reconvening at 2:00 p.m. to hold a public hearing on Resolution C-78-10 Adopting the Island County Budget and Diking District #4 for Fiscal Year 2011.

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PUBLIC HEARING (Record Part 2)

[Document on file with the Clerk of the Board]

Budget Director

Resolution C-78-10 Adopting the Island County Budget and Diking District #4 Budget for Fiscal Year 2011

At 2:05 p.m. the Chair reconvened the Board's Regular Session. She mentioned that the Commissioners were not expected to make any decision on the budget today and indicated that the presentation would be made available on the web following the hearing.

With a consistent focus on financial goals, process, revenues and expenditures, staffing levels, impacts, and most importantly priorities, Ms. Marlow reviewed the Board's work on the budget through 2010 to this point in time.

The Chair opened the floor to public comment at 2:43 p.m. Approximately 20 people commented on the preliminary budget adding their concern for WSU, the Prosecutor and Sheriff, IDIPIC, protection of water quality and a Clean Water District, concessions from unions, increase in salaries, Public Health programs that support Healthy New Baby and New Mothers, reduction in parks staff, help for seniors, and compliance with animal licenses. Most expressed a need to look carefully at core functions and prioritize with the help of volunteers for those non-core functions. *(Sign-up sheets on file with the Clerk of the Board)*

Following Commissioner observations and remarks the Board's Regular Session recessed to Thursday, October 7 at 1:00 p.m. in order to continue the Public Hearing.

REGULAR SESSION RECONVENED – OCTOBER 7, 2010 (Record Part 3)

At 1:05 p.m. the Chair reconvened the Regular Session to continue the Public Hearing on Resolution C-78-10 Adopting the Island County Budget and Diking District #4 Budget for Fiscal Year 2011.

Ms. Marlow addressed a misunderstanding that remains about the difference between Current Expense and Restricted Funds. She also spoke about the next steps with respect to savings in other departments that may help fund positions or programs elsewhere in the County. Among suggested concessions the Superior Court Judges and Mr. Merringer were able to reduce the amount going from the Current Expense Fund into operating the Juvenile Detention Center by staffing reductions at the Juvenile Detention Center. Their request was that the \$48,000 realized would support Healthy New Babies and Maternal programs in Public Health.

Mr. Higman, Public Health Director, spoke directly to the idea proposed.

The Chair re-opened the public comment portion of the hearing at 1:27 p.m. Along with ideas to address the shortfall, members of the audience once again expressed concern for WSU and Master Gardeners, loss of revenue and personnel in the Prosecutor's and Sheriff's offices, misuse of tax dollars, and the necessity for outreach. Public comment was closed.

The Board considered their priorities, with the knowledge that modifications to the 2011 budget are possible after it is known where the State stands next year with its reductions.

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MOVED BY HOMOLA, SECONDED BY DEAN, to ADOPT Resolution C-78-10 Adopting the Island County Budget and Diking District #4 Budget for Fiscal Year 2011 with an agreement that the \$188,000 realized in concessions will be allocated as follows:

- \$48,000 to Public Health as requested by the Superior Court Judges and Mr. Merringer
- \$75,000 to the Prosecuting Attorney
- \$65,000 to the Sheriff

MOTION CARRIED: 3-0

There being no further business to come before the Board the meeting adjourned at 2:36 p.m.
The Board will meet next in Regular Session on October 11, 2010 beginning at 10:00 a.m.

BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON

Helen Price Johnson, Chair

Angie Homola, Member

John Dean, Member

ATTEST:

Elaine Marlow, Clerk of the Board